



PATENT

Docket No. P-US-TN-1444

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Roger Q. SMITH et al.**

Serial No.: 09/153,621

Examiner: **T. Dinh**

Filed: **September 15, 1998**

Group Art Unit: **2841**

For: **HEAVY-DUTY AUDIO EQUIPMENT**

DECLARATION OF MICHAEL L. O'BANION  
UNDER 37 CFR § 1.132

Hon. Commissioner of Patents and Trademarks  
Washington, DC 20231

Dear Sir:

I, Michael L. O'Banion, depose and state that:

1. I am a citizen of the United States of America residing at 1230 Canon Way, Westminster, MD 21157.
2. In 1969, I began working for the Black & Decker Corporation (hereinafter "Black & Decker") as a Development Engineer, and my present title is Director of Innovation.
3. Black & Decker has been and continues to be recognized as a major supplier of power tools and products to be used in construction jobsites.
4. During the entire course of my work, I have designed power tools and products to be used in construction jobsites.

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5. Over the years and in the course of my work in this field, I have had direct contact with workers at construction jobsites and consider that I have gained a significant amount of knowledge relating to the design requirements for power tools and products to be used in construction jobsites.

6. I have been named as inventor or co-inventor in at least 45 US utility patents relating to power tools and products to be used in construction jobsites.

7. I like to fish as a hobby. Accordingly, I have owned, used or had access to fishing equipment, including sonar-based fish indicators, for at least 20 years.

8. I have reviewed the invention of Claim 1 of the present application ("the Claimed Invention"), as well as US Patent No. 4,480,809 ("Healy"). Based on my experience, it is my belief that the arrangement of the Claimed Invention is novel and advantageous over the arrangement shown in Healy.

9. Any power tool or product intended to be used in a construction jobsite has to be relatively tough in order to survive the jobsite conditions. These conditions include other tools being dropped on the product, or the product itself falling down.

10. The Claimed Invention achieves such requirements by having a protective bar which is flexibly connected to the housing. Such flexible connection at least partly absorbs any shock forces occurring from: (1) tools being dropped on the housing; or (2) the radio falling down.

11. On the other hand, Healy discloses a mechanism for easily removing a fish finder housing from a base attached to a boat, and for fixing the angular position of the fish finder housing relative to the base. In this arrangement, housing 10 has a trunnion 26 which receives resilient washer 30. A knob 34 has a screw 36 threadingly engaged to

trunnion 26. A second resilient washer 38 is disposed between knob 34 and base 14. Accordingly, base 14 is sandwiched between resilient washers 30, 38, as shown in FIG. 2 of Healey. To fix the angular position of housing 10 relative to base 14, knob 34 is tightened, compressing washers 30, 38, which provide enough friction accordingly.

12. Because of this compression, base 14 is not flexibly connected to the housing. This is because the washers 30, 38 are so compressed that they cannot absorb any shock force occurring from: (1) tools being dropped on the housing; or (2) the housing falling down. This is not surprising, as none of these occurrences would occur on a sport fishermen's boat, as construction tools are not carried in a boat and the fishfinder is likely to be bolted onto the boat.

13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date:

*6 Sept 2002**Michael L. O'Banion*  
Michael L. O'Banion